

**Special Accounts Senior Management Committee (SASMC) Meeting**  
**Meeting Notes and Action Items**  
**July 24, 2013, 10am – 12pm**  
**Ronald Reagan Building, Room 81107**

**Attendees in Person:**

Jim Woolford, OSWER/OSRTI, Director  
Tracey Stewart, OSWER/OSRTI  
Raffael Stein, OCFO/OFS, Director  
Steve Silzer, OCFO/OFM, Director  
Meshell Jones-Peeler, OCFO/OFM/PCS  
Nikki Wood, OCFO/OFM/PCS  
Jeanne Conklin, OCFO/OB, Acting Deputy Director  
Rafael DeLeon, OECA/OSRE, Acting Director  
Monica Gardner, OECA/OSRE, Acting Deputy Director  
Hollis Luzecky, OECA/OSRE/RSD  
Laura Ripley, OCFO/OB  
Michael Wolfe, OCFO/OB  
Dale Miller, OCFO/OFM  
Patricia Mott, OECA/OSRE/RSD  
Christopher Tomsovic, Booz Allen Hamilton (Contractor Support)

**Attendees via phone:**

Greg Luebbering, OCFO/OFS/CFC  
Peter Hendrickson, OCFO/OFS/CFC  
Manuel Ronquillo, OECA/OSRE/RSD  
Donna Vizian, Region 2/OPM, Assistant Regional Administrator for Policy & Management  
Don Pace, Region 2/OPM/FMB  
Alexida Perez, Region 2/OPM/FMB  
Ben Banipal, Region 6/SFD, Deputy Associate Director  
Doretha Christian, Region 6/SFD  
Lydia Johnson, Region 6/SFD  
Anthony Smaldon, Booz Allen Hamilton (Contractor Support)  
Jessica Kwan, Booz Allen Hamilton (Contractor Support)

**Introduction**

The SASMC began with the in person attendees introducing themselves and Jim Woolford welcoming the regional management and Superfund leads and others who were attending via phone. Following introductions, Woolford noted that there have been changes to the members of the SASMC. He noted that Elliott Gilberg, former Director of the Office of Site Remediation Enforcement (OSRE), retired and that Rafael DeLeon is now the Acting Director. He also mentioned that David Bloom is currently the Acting Deputy Chief Financial Officer and Carol Terris is the Acting Director of the Office of Budget (OB) within the Office of the Chief Financial Officer (OCFO). Carol was unable to attend the meeting, so Jeanne Conklin attended in her absence. Woolford reviewed the agenda with the attendees, and then began discussing the meeting topics.

**Highlights of the Last 6 Months**

Woolford discussed highlights of the Superfund program within the last 6 months. He first informed the group that the Office of Site Remediation and Technology Innovation (OSRTI) issued the “Special

Accounts Management Strategy for 2013-2015” in March 2013 on behalf of the SASMC. Second, he noted that the agency developed a response to the House Appropriations Committee report language; however, the House Appropriations Committee later informed the agency that a response was not needed. He thanked all who participated in developing a response to the report language. Next, he stated that the regions worked with Headquarters (HQ) to conduct FY 2013 Mid-Year Special Accounts reviews between April and June. Additionally, he noted that OSRTI had obtained a decision from the Office of General Counsel (OGC) regarding accessing financial assurance pursuant to Unilateral Administrative Orders (UAOs) and depositing the funds into a special account. **Exemption 5 - Attorney-Client Privilege**

**[REDACTED]** He informed the group that the staff developed an action plan to address the Superfund Program Review recommendations for special accounts, which are discussed later in the meeting. Finally, Woolford noted that the recertification database is now open and the regions are currently processing a number of reclassification actions. He noted that Region 7 is reclassifying \$15M from the Omaha Lead special account in FY 2013 and expects to reclassify an additional \$15M in FY 2014. Additionally, Region 7 anticipates completing the clean up at Omaha Lead in **Exemption 5 - Deliberative** and will assess future site needs and work with HQ to develop a final reclassification plan.

## **Superfund Program Review**

Woolford informed the group that the Superfund Program Review is an effort that kicked off **Exemption 5 - Deliberative** regarding ways to make the overall Superfund program sustainable in light of significant budget reductions. He noted that, using FY 2011 as a baseline, the Superfund program has cumulatively lost about \$140M from appropriations. He added that the reduction includes the impacts of the budget sequestration. He said that the goal of the Superfund Program Review was to internally reevaluate the way the program performs work. He noted that there are significant challenges facing the program such as the large number of retirements that are currently occurring and the changes on the information and technology (IT) front regarding the implementation of the Superfund Enterprise Management System (SEMS) and Compass. He also noted that the program is reevaluating contracting strategies to look for opportunities to get a higher return on their investments.

Woolford stated that he set up an internal Steering Committee made up of regional and HQ stakeholders to evaluate areas where the program can respond to changing budgetary and programmatic environments. The Steering Committee has reviewed approximately 100 recommendations from 10 workgroups charged with evaluating different areas of the program. Among the recommendations, he noted that OSRTI is looking to: (1) build on Integrated Cleanup Initiatives (ICI) efforts by integrating design into remedy construction; (2) apply adaptive management techniques to site cleanup; (3) maximize use of special account funds; and (4) better leverage in-house resources within the Superfund program.

## **Superfund Program Review (SPR) Subgroup – Special Accounts**

### **SPR Special Accounts – Steering Committee Recommendations**

Tracey Stewart stated that within the SPR, there was a special accounts subgroup that was responsible for developing an action plan for implementing recommendations from the Steering Committee related to special accounts. The special accounts subgroup agreed that all recommendations and proposed actions would be brought in front of the SASMC.

The first two recommendations pertained to making an effort to improve the use of special account funds for oversight costs. Stewart noted that the program could improve the use of special account funds for oversight costs by increasing special account payroll charging. She proposed to the SASMC that the site-

specific payroll charging fact sheet that is currently being developed by OSRE continue. As a result of the discussion, OSRE will continue development of the fact sheet on using special accounts for payroll.

She discussed an additional action to draft a memorandum from the SASMC to the regions recognizing and encouraging the continued use of special account funds for oversight activities. This particular memorandum would emphasize timely oversight billing in order to avoid depleting a special account and having to switch over to appropriated funds. The memorandum would also encourage the prepayment of oversight costs by Potentially Responsible Parties (PRPs). Prepayment would allow regions to begin using special account funds in the early stages at a site instead of using appropriated funds until a cost recovery is achieved or oversight bill collected. Stewart also referred to the FY 2012 memorandum regarding the effective utilization of Superfund special accounts and the provision for closing special accounts at sites that achieved construction completion 15 or more years ago. She mentioned that the new memorandum would recognize that it is appropriate for regions to keep those accounts open if there are opportunities to utilize the special account funds for oversight of PRPs. Woolford identified a handful of sites not on the National Priorities List (NPL) where five year reviews (FYRs) are occurring. He informed the group that it would be appropriate to keep special accounts at those sites open to help pay for the FYRs because if additional remedial action work were required appropriated funding cannot be used at non-NPL sites. There were no immediate comments on this particular recommendation. However, there was some later discussion around such situations and whether they should be documented in the site file and/or the files maintained by HQ as part of the semi-annual account reviews. The group decided that the files maintained by HQ are sufficient records. As a result of the discussion, OSRTI will prepare a memorandum on behalf of the SASMC emphasizing the use of special accounts for oversight.

Stewart recommended eliminating the need for an email from the regions notifying HQ that future oversight payments will be deposited in a special account at sites where the settlement agreements are silent in that regard. Moving forward, it would be adequate if regions put a note in the site file instead of sending a notification to HQ. The SASMC concurred and agreed to Stewart's recommendation. OSRTI will modify notification requirements and provide model language for regions to include when making a note in the site file.

## Exemption 5 - Deliberative Process

Recommendations were already sent to the budget subgroup and are under their consideration as they do a broader review, no action is required. She mentioned an additional recommendation proposed by the Steering Committee regarding the use of in-house resources if special account funds cannot be used for oversight. The special account subgroup chose to move this recommendation to the in-house resources subgroup. Stewart stated no action was required.

The next recommendation was to close low balance special accounts. Stewart recommended to the SASMC that they have the Regional Superfund Division Directors annually review open special accounts with available account balances less than \$10K for potential closure. Steve Silzer recommended that the minimum threshold be \$25K because that amount is a standard threshold across government agencies. Jim Woolford asked the regional representatives on the call if they opposed having a \$25K minimum threshold and they did not oppose. The group determined that it is okay to proceed with Regional Superfund Division Directors including as part of their annual review special accounts with less than \$25K for potential closure.

Stewart's final recommendation regarded evaluating future work requirements for special accounts. The recommendation would require consulting with OGC to re-evaluate Section 122(b)(3) of CERCLA. Exemption

## Exemption 5 - Deliberative Process

The SASMC was opposed to the recommendation and suggested re-visiting at a later time.

## Exemption 5 - Deliberative Process

### SPR Special Accounts – Workgroup Discussions

#### Contract Lab Program (CLP)

Stewart noted that another discussion within the SPR subgroup revolved around re-evaluating the use of special account funds to support the CLP. CLP provides analytical services through laboratories for the regions and is funded through HQ. Currently, the CLP is bulk funded with appropriated dollars through HQ and OSRTI has explored multiple ways of using special account resources to support CLP work. Different methods included swapping out appropriated resources with special account resources using a contract modification and buying into the CLP with special accounts at certain sites. Both methods proved to be challenging and cumbersome. Stewart proposed taking another look at swapping out appropriated resources with special account resources, this time using a SV document. HQ would look at prior budget fiscal year CLP expenditures and crosswalk those with sites that have available special account funds. HQ would then reach out to the regions with that analysis to determine where it would be appropriate to execute the swap. Regions 1 and 2 have agreed to test the proposal under a pilot this fiscal year. The idea to track the special account funds spent on this activity was suggested. The results of the pilot, an estimate of how much may be obtained, and the ability to track this effort will be discussed with the SASMC at their January meeting before implementing pilot efforts across the regions in FY 2014.

#### Depositing Funds in Special Accounts after Reclassification

Stewart noted that the SPR subgroup discussed whether it is appropriate for regions to deposit funds in special accounts if they previously reclassified funds from an account. The SASMC agreed that there may be situations in which it is appropriate to deposit funds in a special account after a reclassification occurred. Woolford noted that there have been situations in which regions have reclassified funds from a special account at a site then had to revisit site activities due to a change in circumstances, such as changes in cleanup standards. As a result, there would be a need for additional funds even if funds had been previously reclassified from the special account. The SASMC also discussed the deposit of oversight payments after reclassification, and the pros and cons of keeping special account balances to fund oversight over potentially 10-30 years or keeping special account balances relatively low by reclassifying excess funds and then maintaining the amount that is necessary through a drawdown/deposit cycle for annual oversight payments. The SASMC agreed that the program may need to develop a strategy to define when it would be appropriate to deposit funds in a special account after a reclassification has occurred. A specific timeframe for when a strategy would be developed was not discussed.

#### Use of the WQ Bulk Funding Action Code with Special Account Obligations

Stewart noted that Region 9 inquired about using the “WQ” bulk funding action code for special accounts. She informed the group that Region 9 has several large sites with many operable units (OUs) and many PRPs for which they need to track costs and the fact that obligation lines have to match expenditure lines is causing issues for the region. She mentioned that she looked at the Action Code Dictionary and it did not seem to prohibit using the WQ action code for special accounts, but also did not say it could be done. The danger is in the fact that “WQ” is not associated with a response action and special account funds must be spent on response actions. She noted that OSRTI is okay with that because the expenditure has to

be redistributed to a response action code. There was also concern raised about unliquidated obligations and that funds not be obligated unless there was a bonafide need. She proposed a control mechanism of monitoring all special account "WQ" obligations and asking the regions during mid-year and work planning how long the funds have been obligated and when they plan to expend them in order to keep from sitting too long on a non-response action code. This would also ensure special account funds are not expended for the "WQ" action code. In regards to the use of the "WQ" bulk funding action code for special accounts, there was discussion regarding the Office of Financial Management's (OFM) policy regarding the use of "WQ" and "ZZ" codes and the controls outlined in that policy. Staff will investigate whether the Action Code Dictionary should be updated to reflect special account use of the "WQ" action code and will review the current OFM policy for controls over the use of the bulk funding codes.

### **Modifying Reclassification Procedures**

Stewart noted that the special accounts subgroup had wanted to see if it was possible to reduce the number of lines required for the "KV" document used to effectuate the reclassification in Compass. Stewart introduced two actions to consider: (1) reduce the data elements required on "KV" documents that would then reduce the number of lines of accounting; (2) have OSRTI create a team to assist regions in developing "KV" documents if the regions do not have the staff or resources to do so. One drawback to OSRTI assisting with the development of "KV" documents is that they have limited ability to enter the Budget Organization code because HQ is unfamiliar with the regions' unique code structures. She asked Greg Luebbering and Peter Hendrickson whether there are any ways of reducing the number of lines on the "KV" document by reducing specific data elements required on the "KV". They responded that the "KV" document is an expense document that must contain certain elements thereby dictating the number of lines that must be included. Greg added that CFC can generate reports containing the necessary lines thereby minimizing the manual effort needed to create a "KV" document. Stewart mentioned that she and Alan Youkeles, of OSRTI, can assist regions if they need help compiling "KV" documents; however, she would still need the regions to enter their region-specific Budget Organization codes. The SASMC agreed that data elements required for "KV" documents cannot be reduced to further reduce the number of lines of accounting required for reclassifications. OSRTI will discuss internally the use of staff resources to assist regions with development of "KV" documents. There was also discussion about doing a reclassification refresher training this fall with all of the regions.

### **Providing Assurance of Future Funding after Reclassification/Transfer**

Lastly, Stewart noted there was much discussion in the special accounts subgroup about a lack of desire to reclassify and transfer funds to the Trust Fund because regions want to retain funds in case future work arises at a site. The regions would be more likely to reclassify and/or transfer funds to the Trust Fund if there was an assurance from HQ that funding would be available if additional work came about. Stewart presented four options to the SASMC.

#### **Exemption 5 - Deliberative Process**

The SASMC debated the various proposals and assurance levels. Jim Woolford concluded the topic by stating that OSRTI will develop a proposal on providing an assurance of funding for future work where a special account has been closed and will follow-up with the SASMC.

### **Special Account Reclassifications and Superfund State Cost Share**

Stewart informed the group that OSRTI proposed developing guidance to address the reduction of state cost share resulting from special account reclassifications. The group did not discuss this topic any further.

due to a lack of time, but the SASMC had read the materials on this topic prior to the meeting. OSRTI will proceed with development of guidance in coordination with SASMC staff and state cost share staff.

### Accessing Indirect Costs in Special Accounts

Laura Ripley asked the SASMC for their approval to allow OCFO to consult with OGC to obtain approval for charging indirect costs to special accounts. She noted that OCFO already bills its indirect rate for existing Interagency Agreements (IAs).

### Exemption 5 - Deliberative Process

Jim Woolford asked Laura Ripley if OCFO personnel are currently charging site-specifically to special accounts. Ripley noted that OCFO is not currently charging site-specifically to special accounts.

He stated that the SASMC needs to have another conversation regarding charging indirect costs to special accounts in the near future and tasked the Office of Budget as the lead in setting up a future conference call. OSRE will look into the history of applying indirect cost rates to settlements and view a sample of settlement agreements for how funds can be used. OB will also prepare potential methodologies for how indirect costs could be applied to special accounts.

### Action Items

Below is a list of action items identified during the meeting.

Item	Lead	Due Date/Status
Schedule a follow up call with the SASMC to discuss charging indirect costs to special accounts.	OB	
Research settlement language regarding indirect cost rates and use of settlement funds in special accounts.	OSRE	
Look into the history of applying indirect cost rates to settlements.	OSRE	
Scope out possible methodologies for charging indirect costs to special accounts.	OB	
Develop potential dollar values for indirect costs.	OFM	
Continue development of fact sheet on using special accounts for payroll.	OSRE	Issue by December 2013.
Prepare a memo on behalf of the SASMC encouraging use of special accounts for oversight activities.	OSRTI	Issue by January 2014.

Item	Lead	Due Date/Status
Modify notification requirements so that regions no longer have to notify HQ if depositing funds in a special account where the agreement is silent on special accounts. Provide model language for regions to include when making a note in the site file.	OSRTI	Issue by December 2013.
Develop a strategy to define when it would be appropriate to deposit funds in a special account after a reclassification has occurred.	OSRTI	A due date was not discussed. Deposit of funds for oversight after reclassification may be included as part of oversight memo action above.
Investigate if the action code dictionary should be updated to reflect special account use of the WQ action code.	SASMC Staff	Include for FY14 Action Code Dictionary.
Discuss internally the use of staff resources to assist regions with development of KV documents.	OSRTI	
Develop a proposal on providing an assurance of funding for future work where a special account has been closed and follow up with the SASMC.	OSRTI	
Proceed with development of guidance around special account reclassifications and state cost share in coordination with SASMC staff and state cost share staff.	OSRTI	